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Kerala Gazette Extraordinary No. 42 dated 21st March 1958.

REVENUE (H) DEPARTMENT.

NOTIFICATION.

No. H1-7992/58/RD. *Dated, Trivandrum, 21st March 1958.*

In exercise of the powers conferred by Section 24 of the General Sales Tax Act, 1125 (Act XI of 1125) the Government of Kerala hereby make the following amendment to the General Sales Tax Rules 1950, the same having been previously published as required by sub-section (4) of the said section.

Amendment.

For sub-rule (4) of Rule 22 of the said Rules the following shall be substituted, namely :—

"(4) If an application for the grant of renewal of licence is received after the date prescribed therefor, the licence shall not ordinarily be granted or renewed with effect from a date prior to the date of the receipt of the application and shall expire on the last day of March of the year in respect of which it is granted or renewed :

Provided that the Inspecting Assistant Commissioner of Sales Tax may, in any deserving case, direct the licensing authority to accept an application for the grant or renewal of a licence received after the prescribed date and issue the licence with retrospective effect on the applicant's paying as penalty such sum not exceeding nine times the licence fee in addition to the usual licence fee as may be fixed by the Inspecting Assistant Commissioner of Sales Tax".

By order of the Governor,
M. K. DEVASSY,
Secretary to Government.

Kerala Gazette Extraordinary No. 42 dated 21st March 1958.

THE KERALA STAY OF EVICTION PROCEEDINGS (AMENDMENT) BILL, 1958.

Report of the Select Committee.

1. The Select Committee to which the Kerala Stay of Eviction Proceedings (Amendment) Bill, 1958 was referred have considered the Bill and now submit this, their report with the Bill as reported by the Committee annexed thereto.

2. The Bill was published in the Gazette Extraordinary dated the 27th February 1958.

3. The Bill was introduced in the Legislative Assembly on the 3rd March 1958 and the motion for reference to a Select Committee was adopted on the same day.

4. *Clause 3.*—The Committee consider that the definition of "Kudikidappukaran" should be expanded and for that purpose they have adopted the definition of "Kudikidappukaran" proposed in the Kerala Agrarian Relations Bill, 1957.

5. *Clause 4.*—The Committee feel that a specific provision is necessary in the Act making it clear that the provisions of section 4 do not operate as a bar against recovery of rent or instalment of rent if according to custom, usage or agreement such rent or instalment of rent is payable on a date after the Kerala Stay of Eviction Proceedings Ordinance, 1957 came into force.

6. *Clause 5.*—The Committee understand that many persons who are entitled to cultivate land under section 6 or section 7 are obstructed or prevented from cultivating the land. To enable such persons to cultivate the land, the Committee are of opinion that a provision should be made allowing such persons to apply to the Tahsildar for an order that they are entitled to cultivate the land. The Tahsildar is to hold enquiries in the matter and decide whether the applicant is entitled to cultivate the land. If he is so entitled, the Tahsildar is to restore the applicant to possession and allow him to cultivate the land. If the person entitled to cultivate under the orders of the Tahsildar is obstructed or prevented from cultivating, the persons causing the obstruction or prevention is punishable, on conviction, with imprisonment for a term which may extend to six months or with fine which may extend to Rs. 500 or with both. A new section 7-A has been added by the Committee for this purpose.

It has also been specifically provided that any person aggrieved by an order of the Tahsildar may seek his remedy in a court of law.

The Committee are also of opinion that whenever Courts grant injunction orders with respect to proceedings, where a dispute as to whether a person is entitled to cultivate the land is the subject matter, notice should be issued to the party affected to show cause against the order proposed to be granted. The new section 7-B added by the Committee is for this purpose.

K. R. GOURI,

Chairman of the Select Committee.

THE KERALA STAY OF EVICTION PROCEEDINGS (AMENDMENT) BILL, 1958

(*As reported by the Select Committee.*)

A

BILL

further to amend the Kerala Stay of Eviction Proceedings Act, 1957.

Preamble.—WHEREAS it is expedient further to amend the Kerala Stay of Eviction Proceedings Act, 1957, for the purposes hereinafter appearing;

BE it enacted in the Ninth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Kerala Stay of Eviction Proceedings (Amendment) Act, 1958.

(2) It shall come into force at once.

2. *Amendment of section 1.*—In sub-section (3) of section 1 of the Kerala Stay of Eviction Proceedings Act, 1957 (Act 1 of 1957), *hereinafter referred to as the principal Act*, for the words, figures and letters "the 11th day of April 1958", the words, figures and letters "the 11th day of April 1959" shall be substituted.

3. *Amendment of section 2.*—In section 2 of the principal Act, for clause (3), the following clause shall be substituted, namely:—

"(3) "Kudikidappukaran" means a person who has no homestead or land of his own to erect a homestead and—

(i) who has been permitted with or without an obligation to pay rent by an owner of land to have the use and occupation of a portion of the land in his possession for the purpose of erecting a homestead, or

(ii) who is in occupation of a hut constructed by a person owning and possessing the land in which the hut is situated and who has been permitted by such person to occupy the hut with or without an obligation to pay rent,

but otherwise has no interest in the land; and "Kudikidappu" means the land and the homestead or the hut so permitted to be erected or occupied together with the easements attached thereto, and includes an ulkudi.

Explanation I.—Any person who was in occupation of a kudikidappu on the commencement of the Kerala Stay of Eviction Proceedings Ordinance, 1957, shall be deemed to be in occupation of such kudikidappu with permission as required under this clause.

Explanation II.—For the purpose of this clause "hut" means any dwelling house which has a value not exceeding four hundred rupees".

4. *Amendment of section 4.*—In section 4 of the principal Act, the following proviso shall be added, namely:—

"Provided that nothing in this section shall preclude the recovery of the rent or any instalment of rent if according to custom, usage or agreement, such rent or instalment of rent is payable after the day on which the Kerala Stay of Eviction Proceedings Ordinance, 1957, came into force.

5. *Insertion of new sections 7-A and 7-B.*—After section 7 of the principal Act the following new sections shall be inserted, namely:

"7-A. *Disputes regarding right to cultivate land.*—(1) Any person claiming to be in possession and cultivates under section 5 or claiming to be entitled to cultivate any land under section 6 or section 7 is prevented or obstructed from cultivating the land, may apply to the Tahsildar of the Taluk in which the land is situate for an order that he is so entitled.

(2) The Tahsildar shall, on receipt of an application under subsection (1) and after such enquiry as he deems necessary and after issue of notice to the opposite party, by order, decide whether the applicant is entitled to cultivate the land under section 6 or section 7, and if he is so entitled, restore him to possession and allow him to cultivate the land.

(3) Where any person, who, under an order of the Tahsildar under subsection (2), is entitled to cultivate the land, is prevented or obstructed from so cultivating, the person who causes such prevention or obstruction shall, on conviction, be punishable with imprisonment for a term which may extend to six months or with fine which may extend to Rs. 500 or with both.

(4) Nothing in this section shall be held to prevent a party deeming himself aggrieved by any decision or order passed or proceedings taken by the Tahsildar from seeking his remedy in a Court of law.

7-B. *Courts to issue notices before granting injunction orders.*—No court shall, in any proceeding where a dispute as to possession or as to whether a person is entitled to cultivate the land under section 6 or section 7 is the subject-matter, grant an injunction unless notice has been issued to the party affected to show cause against the order proposed to be granted."

V. Krishnamoorthi,
Secretary,
Legislative Assembly.